

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**CARLOS SERRANO JUARBE**

**Plaintiffs**

**v.**

**UNITED STATES OF AMERICA**

**Defendant**

**CIVIL NO.:**

**FEDERAL TORTS CLAIMS ACT  
MEDICAL MALPRACTICE**

**COMPLAINT**

**TO THE HONORABLE COURT:**

**COMES NOW**, Plaintiff through the undersigned attorney and most respectfully  
**STATES** and **PRAYS** as follow:

**I. JURISDICTION**

1. This Honorable Court has jurisdiction over the parties and the subject matter of this litigation pursuant to 28 U.S.C. § 1331 and under the Federal Torts Claim Act 28 U.S.C. § 346(b), 2671- 2680, arising out of the actions and omissions of the United States Department of Veterans Affairs, its employees, affiliates, agents, contractors, and representatives.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(a) since the claims alleged arose in this judicial district.

## II. NATURE OF THE ACTION

3. This is a civil action to recover from damages suffered by plaintiff Carlos Serrano - Juarbe due to lack of proper medical care at the VA Medical Caribbean Health Care System.

## III. PARTIES

4. Plaintiff, **CARLOS SERRANO – JUARBE** is resident of Urb. Lagos de Plata, Calle 6, G-15, Levittown, Toa Baja, Puerto Rico 00949.

5. Defendant **UNITED STATES OF AMERICA** is the entity in charge of overseeing the funding and administration of the Department of Veterans Affairs and/or VA Medical Caribbean Health Care System. United States is the employer of all the physician, medical staff and/or personnel who treated and provided medical attention to veteran Samuel Nieves at the facilities of VA Medical Caribbean Health care System (herein after referred as the “VA Hospital”).

## IV. FACTS

6. Veteran Carlos Serrano- Juarbe (herein after “Mr. Serrano”) is a 59-year-old male with history of CLD, diabetes, Hepatitis B/Diverticular disease.

7. His clinical record at VA Hospital showed a diagnosis of both internal and external hemorrhoids since 2016.

8. Mr. Serrano complained of pain and bleeding on July 2016 and the physical examination performed at VA Hospital revealed a perianal abscess with erythema and associated cellulitis.

9. VA Hospital plan was to observe the lesion, but there was no further evaluation until he presented with a mass on January 12, 2018.

10. The clinical visits to VA Hospital between July 5, 2016 through January 12, 2018 were confined to renewal of his medications for hemorrhoids and no examination of the affected area.

11. Mr. Serrano presented to the Emergency Room of VA Hospital on January 12, 2018 complaining of rectal pain and bleeding. He was transferred to Surgical Clinics on March 12, 2018 for evaluation and a hard, exophytic lesion, anal lesion, was found.

12. A colonoscopy and biopsy of the lesion was performed on April 12, 2018. The pathological report was compatible with an adenocarcinoma invading the muscle layers.

13. On June 4, 2018, a radical resection was recommended since an anterior resection with sphincter saving was not an option.

14. On July 17, 2018, Mr. Serrano underwent an Abdominal Perineal Resection (APR) with Colostomy due to the delay in treatment and diagnosis from VA Hospital.

15. Mr. Serrano was suffering from rectal pain and bleeding for four years and no adequate treatment was provided to him by VA Hospital.

16. Due to the above, Mr. Serrano was submitted to an APR with Colostomy. During an APR the surgeon removes the lower part of the large bowel, the rectum and anus through cuts made in the abdomen and perineum (skin between the anus and genitals). Then through a colostomy, the surgeon brings out a loop of the large intestine onto the surface of the skin and the stool and gas will be collected in a pouch that sticks to the skin around the stoma.

17. There was a deviation from accepted medical practice when patient was not examined or evaluated for anal lesion. This contributed to the presentation of a tumor in

an advance state with involvement of muscle. As a result, a sphincter saving operation was not an option.

18. Mr. Serrano suffered a life changing procedure which has limited his daily activities and he will need medical care and assistance for life.

19. Mr. Serrano suffered and will continue to suffer permanent impairment.

20. Mr. Serrano will have a colostomy for life.

## **V. CAUSES OF ACTION**

21. The allegations contained in paragraph No.1 through No.15 of this complaint are incorporated by reference as is fully set forth herein by plaintiff Carlos Serrano - Juarbe.

22. Under the Federal Tort Claims Act, the United States is liable for all the damages caused to plaintiff Carlos Serrano- Juarbe due to the negligence and medical malpractice of the VA Hospital agents, doctors and/or medical personnel who treated him.

23. The care provided to Mr. Serrano by the VA Hospital fell below the standards of care resulting in his permanent damages. Further, the failures, mischaracterizations, and omissions in treatment of the employees of the VA Hospital were the proximate cause of his damages.

24. The medical staff of the VA Hospital had a duty to utilize due care and follow accepted medical standards in providing medical treatment and care to Mr. Serrano.

25. Said medical staff breached their duty, were negligent and committed medical malpractice because the treatment provided to Mr. Serrano deviated from accepted standards of care.

26. Furthermore, there was a deviation from accepted medical practice when patient was not examined or evaluated for anal lesion. This contributed to the presentation of a tumor in an advance state with involvement of muscle. As a result, a sphincter saving operation was not an option.

## **VI. DAMAGES**

27. The allegations contained in paragraph No. 1 through No.26 of this complaint are incorporated by reference as is fully set forth herein by plaintiff Mr. Serrano.

28. As a direct result of the defendant's negligence and omissions, Mr. Serrano suffered excruciating mental anguishes.

29. Mr. Serrano suffered and continue to suffer excruciating physical damages, pain, impairment, and emotional distress due to the negligent acts and/or omissions of VA Hospital. Mr. Serrano's damages are estimated in amount of five million dollars (\$5,000,000.00).

## **VI. PRAYER FOR RELIEF**

**WHEREFORE**, it is respectfully requested that Judgment be entered by this Honorable Court in favor of the plaintiffs and against the defendant:

- A. Granting Plaintiff the sum requested in the Complaint.
- B. Imposing upon the defendant the payment of all costs and expenses to be incurred in this lawsuit.
- C. Granting the Plaintiff any other relief that they may be entitled to as a matter of law.
- D. Awarding plaintiffs a reasonable amount for attorney's fees.

**RESPECTFULLY SUBMITTED**

In San Juan, Puerto Rico, this 1<sup>st</sup> day of March 2021.

***Attorney for Plaintiff:***

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